

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**FILED**

DONALD L Moshier JR

MAY 21 2008

PLAINTIFF

CLERK U.S. DISTRICT COURT, A. NO. 05-180 ERIE  
WEST. DIST. OF PENNSYLVANIA

V.

UNITED States of America, et al  
Defendants

District Judge McLaughlin  
Magistrate Judge Baxter

Declaration For Entry of Default

DONALD L Moshier JR, Hereby Declares:

I am the plaintiff herein. A motion for summary judgment to dismiss plaintiff's claim, was filed on 10/12/07, plaintiff filed his rebuttal to summary judgment on 12/2/07.

Magistrate Judge Baxter's Report and Recommendation was to grant motion for summary judgment was filed on 4/9/08. However in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1:4(B) of the Local Rules for Magistrate Judges, the parties are allowed ten (10) days from the date of service to file written objections to this report and recommendation. Any party opposing the objection shall have seven (7) days from the date of service of objections to respond thereto. Failure to file timely objections may constitute a waiver of any appellate rights.

Plaintiff Filed His objection To Report AND Recommendation ON 4/14/08, However, do To plaintiff being Locked up IN (SHU) Special Housing Unit, AND WITH THE Delays of the Mail going out From this Facility, plaintiff's objection WASN'T Filed WITH THE Clerk of Courts UNTIL 4/29/08

THE Court Files AND Records Herein SHOW THAT THE Defendants WAS SERVED A COPY OF Plaintiff's objection Notice To Magistrate Judge BAXTER'S Report AND Recommendation,

NOT ONLY HAS IT BEEN SEVEN (7) DAYS BUT WELL OVER 20 DAYS HAVE ELAPSED SINCE THE DATE ON WHICH THE Defendants Herein WERE SERVED WITH THE COPY OF plaintiff's objection motion.

THE Defendants HAVE FAILED TO ANSWER OR OTHERWISE DEFEND AS TO plaintiff's objection motion, OR SERVE A COPY OF ANY ANSWER OR ANY DEFENSE WHICH IT MIGHT HAVE HAD, UPON AFFIANT OR ANY OTHER plaintiff Herein.

Defendants ARE NOT IN THE military service AND ARE NOT INFANTS OR INCOMPETENTS, NOR ARE THEY IN PRISON, SUCH AS plaintiff IS.

I Declare under penalty of perjury  
that the foregoing is true AND correct  
EXECUTED AT, F.C.I. Schuylkill, Minersville PA  
17954-0759,

Dated ON this DAY 19<sup>TH</sup> OF MAY 2008

Respectfully Submitted  
By: Donald C Moshier JR.  
Donald C Moshier Jr  
Reg # 10924 052  
F.C.I. Schuylkill  
Minersville, PA  
17954-0759

MEGAN E FARRELL  
Assistant U.S. Attorney  
Western District of PA  
700 Grant Street, Suite 4000  
Pittsburgh, PA 15219

Date 5/19/08

To Clerk of Court,

AS YOU CAN SEE I'm Locked up  
IN (SHU) Special Housing Unit, AND I've  
Got to write everything with pencil, AND  
I'm UNABLE TO get copies, CAN you please  
Send me a copy back,

I wrote a copy out TO the A.U.S.A. AND  
mailed, I'd Really appreciate it if you CAN  
please Send me a copy back,

THANK you

Sincerely,  
Donald C. Morin